

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

TUCARD, LLC.

Defendants.

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Civil Action No. 10-11185

ORDER IN AID OF IMMEDIATE ACCESS

Pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9604(e), Plaintiff the United States of America has moved the Court for an Order in Aid of Immediate Access ("Order") to allow the United States Environmental Protection Agency ("EPA") immediate access to property owned by Tucard, LLC. The property to which EPA seeks access is located at 76-100 Pleasant Street, Dracut, Middlesex County, Massachusetts ("the Property") and constitutes the Navy Yard Mills Superfund Site ("Site"). The United States seeks the requested Order, pursuant to Section 104(e)(B)(i) of CERCLA, 42 U.S.C. § 9604(e)(B)(i), for the purposes of conducting a removal action on the Property, as outlined by EPA in its March 26, 2010 Action Memorandum, and as directed in EPA's Administrative Order Directing Compliance With Request For Access, dated April 6, 2010.

The Court, having reviewed the submissions, finds that (1) EPA has "a reasonable basis to believe there may be a release or threat of release of a hazardous substance or pollutant or contaminant" to the environment, (2) there have been releases or threatened releases of

CERCLA hazardous substances to the environment at the Property, and (3) the Property is a place where EPA is authorized access under CERCLA Section 104(e)(3), thereby satisfying the statutory prerequisite for EPA's entry and access to the Property under Section 104(e)(3) of CERCLA, 42 U.S.C. § 9604(e)(3),

Accordingly, the Motion of the United States for Order in Aid of Immediate Access is GRANTED, and IT IS HEREBY ORDERED AS FOLLOWS:

EPA, its officers, employees, or representatives, are authorized, to immediately enter the Property, pursuant to Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), for the purposes of performing the removal action, set forth in the March 26, 2010, Action Memorandum and, as indicated in EPA's Administrative Order Directing Compliance With Request For Access to the Property, dated April 6, 2010, pursuant to Section 104(e)(3) of CERCLA, 42 U.S.C. § 9604(e)(3), for a period of 12 months.

EPA is allowed access for the activities described in the Action Memorandum, as follows:

- Conduct a Site walk with EPA contractors to determine appropriate equipment, personnel and utilities required;
- Develop and implement a Site health and safety plan;
- Prepare an air monitoring plan to ensure the safety of workers and the public and conduct air monitoring, as needed;
- Mobilize personnel and equipment to the Site;
- Delineate work zones and decontamination areas, as necessary;
- Provide security at the Site, as necessary;
- Plan for and execute proper sampling, identification and characterization of hazardous materials;
- Conduct additional sampling as needed to determine the extent of air, soil, and

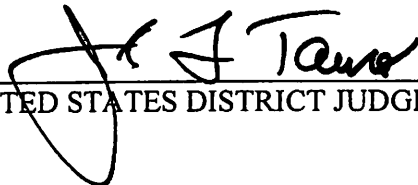
groundwater contamination;

- Remove asbestos-containing material (ACM) where necessary to prevent releases to the environment and/or to create safe working conditions while conducting removal activities;
- Remove drums, cylinders, and containers of hazardous materials, as necessary;
- Remove building materials, non-structural framework, etc., as needed to safely access contaminated soils and groundwater for sampling, excavation and/or treatment;
- Evaluate and implement cleanup methods, which may include installation and short-term operation of an in-situ treatment system to reduce soil contamination and/or excavation of contaminated soils;
- Assess, characterize, and address any additional hazardous materials discovered during the course of this action;
- Dispose of materials in accordance with 40 CFR Part 300.440 *Procedures for Planning and Implementing Off-Site Response Actions*;
- Backfill excavated areas with clean fill;
- Repair response-related damages.

Defendant Tucard, LLC, shall permit the persons identified above to enter onto the Property for the purposes described in this Order, and shall refrain at all times from any interference with such entry and conduct of EPA activities on the Property.

This Order shall remain in effect until it expires or is modified by the Court.

SO ORDERED this 15TH day of Sept, 2010.


UNITED STATES DISTRICT JUDGE

Publisher Information

**Note* This page is not part of the opinion as entered by the court.
The docket information provided on this page is for the benefit
of publishers of these opinions.**

1:10-cv-11185-JLT United States of America v. Tucard, LLC
Joseph L. Tauro, presiding
Date filed: 07/15/2010
Date of last filing: 09/07/2010

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